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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,697	07/30/2001	Peter C. Craig	PLI/0007	2200

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,697

Applicant(s)

CRAIG, PETER C.

Examiner

Thomas Price

Art Unit

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-- *Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address* --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9, 13, 17, 21, 25-28 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 13, 17, 21, 25-28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9, 13, 17, 21, 25, 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kardell.

Kardell teaches a reusable folding container which is structurally similar to the Applicant's claimed livestock pen. More specifically, the apparatus of Kardell includes a platform base container open sided lacking rigid side walls and having a base similar to that of a platform container. The platform based container open sided formed with corner fittings 31, 33 and is in the shape of a rectangle. A plurality of panels A-D are erected on and connected to said platform based container open sided. The inside surface of the platform based container open sided is coated with an impervious coating which is considered to be an impermeable membrane. Regarding claims 3 and 4, the rounded portion (unnumbered) of the corner 31, 33 is considered to be posts of equal height. Further, it is possible to have one of the panels in a non-erected position, thus at least one of said perimeter planar areas being open to the air. As for claims 13 and 25, hook assembly 19 anchors said panel to said rectangular platform based container open sided. In regards to claim 21, bracing member 13 connects oppositely

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opposed side panels. As for claims 26 and 28, a means for receiving a tensioning member is a hook assembly 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kardell '165 in view of Johnson et al '854. Kardell does not discuss nor teach the use of a winch assembly. However, Johnson et al teach the use of a winch assembly in combination with a shipping container. Regarding claim 27, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Kardell with a winch assembly, in view of the teachings of Johnson et al, in order to assist an operator in assembling and disassembling the side panels.

Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kardell '165.

Kardell teaches that the reusable folding container can be used to ship many types of items but did not specifically mention livestock. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the device of Kardell in order to load, transport and unload livestock, because livestock is an item widely known for being transport in container, further, the specification does not mention

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or discuss the distinction of livestock being loaded, transported and unloaded as a patentable feature.

Conclusion

Summary: Claims 1-4, 9, 13, 17, 21, 25-28 and 30-33 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Mon, Tues, Thurs & Fri 6:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Thomas Price
Primary Examiner GAU: 3643

rtp
April 6, 2003